IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

WP(C).No. 31405 of 2007(L)

PETITIONER:

CONYBIO HEALTH CARE (INDIA) PVT.LTD., CONYBIO HOUSE, JAWAHARLAL NEHRU SALAI, EKKADUTHANGAL, CHENNAI-600 097 REPRESENTED BY M.S.NAZIM, DIRECTOR.

BY ADV. SRI.VIJAYAN. K.U.
SRI.K.N.SREEKUMARAN

RESPONDENTS:
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1. SALES TAX OFFICER, II CIRCLE, THRIPUNITHURA-682301.

2. DISTRICT COLLECTOR, CHENNAI-600097.

3. DISTRICT COLLECTOR, ERNAKULAM-682030.

4. STATE OF KERALA REPRESENTED BY THE SECRETARY (TAXES), GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695001.

BY GOVERNMENT PLEADER SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) NO. 31405 OF 2007 L

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Dated this the 23rd day of October, 2007

J U D G M E N T

The challenge in this writ petition is against Ext.P4, by which, recovery proceedings have been initiated against the petitioner for a sum of Rs.2,96,212/-. Initially, it would appear that assessment of tax was completed as against the Clearing and Forwarding Agent of the petitioner and Ext.P5(b) is the order of assessment in relation to 2001-02. It would appear that subsequently proceedings were initiated under Section 19(c) of the KGST Act and Ext.P5 notice was issued to the petitioner. Though it is admitted that Ext.P5 was served on it,, the petitioner did not respond to Ext.P5 and therefore the assessment was completed as per Ext.P5(a) by which the balance due from the petitioner has been quantified at Rs.2,15,660/-. It is in pursuance to this that Ext.P4 revenue recovery proceedings have been initiated.

2. In my view, petitioner cannot resist Ext.P4 for the

reason that the petitioner did not respond to Ext.P5 or did not pursue the matter from the stage of Ext.P5(a) and as Ext.P5(a) having become final, petitioner is liable for the amount due. Petitioner submits that Ext.P5(a) is nonest and void in law. This contention is difficult of acceptance. In view of Section 19(c) of the Act, there is no substance in the contention. Even if an order is nonest or void, unless the same is challenged in an appropriate legal proceedings and got it reversed, party is bound by that.

For that reason also , I do not see any merit in this writ petition and it is dismissed.

ANTONY DOMINIC, JUDGE.

Rp